

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )                           4:11CR3037  
                                )  
v.                            )  
                                )  
JOSE JAVIER HERNANDEZ-CERRATO, )                           MEMORANDUM AND ORDER  
                                )  
Defendant.                 )

Upon review of the facts set forth in the motion of defendant's counsel, (filing no. 44),

IT IS ORDERED that the motion for competency evaluation, (filing no. 44), is granted, and

1. The defendant is remanded to the custody of the Attorney General of the United States for assessment and, as needed, for mental health care and treatment at the Federal Medical Facility, Springfield, Missouri, or other suitable facility, pursuant to the provisions of 18 U.S.C. §§ 4241 and 4247. The Federal Medical Facility shall determine whether the defendant has the cognitive ability, competence, and capacity to consult with counsel, understand the criminal proceedings, and participate with and assist counsel in his defense. Said institution or facility shall submit to the undersigned and all counsel of record a report of its evaluation and the status of defendant's mental state within 60 days of the defendant's arrival at such facility.

2. The United States Marshal shall forthwith, without delay, transport the defendant to the Springfield, Missouri facility, or other suitable facility as identified by the Attorney General of the United States, in accordance with this order, at no cost to the defendant. The Marshal shall ensure the defendant receives all currently prescribed medications during his transport to the Federal Medical Center.

3. Defendant's change of plea hearing, currently scheduled for December 15, 2011 at 2:30 p.m., is continued pending a determination of his mental competency and ability as set forth herein.

4. Except as to transportation time presumed unreasonable under 18 U.S.C. § 3161(h)(1)(F), the time between today's date and a judicial determination that the defendant is competent and capable of assisting in his defense shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act. 18 U.S.C. § 3161(h)(1)(A) & (h)(4).

November 16, 2011

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge